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Joseph Weathered

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPLICANT(S)	:	Larry A. SKLAR et al.
SERIAL NO.	:	10/021,243
FILED	:	12/19/2001
FOR	:	Microfluidic Micromixer
GROUP ART UNIT	:	1641
EXAMINER	:	Ann Y. LAM

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

1. As pointed out in the Examiner's Answer, element 30 of Ferrari receives a gas-separated first fluid flow stream through the right inlet of that element. However, the gas-separated aliquots of liquid fed to the right inlet port of element 30 in the Ferrrari device are not samples from respective source wells, as set forth in appellants' claim 1. Rather, the gas-separated samples (S1, S2, S3) in the device of Ferrari that correspond to appellants' gas-separated samples are separated or isolated by the dialyzer from the flow stream entering the right inlet port of

element 30. The device of Ferrari does not have a flow structure that permits feeding of the samples (S1, S2, S3) to the element 30.

Pursuant to appellants invention as set forth in claim 1, the well samples, separated by gas, are fed to the first inlet port of the junction device for mixing therein with a second fluid flow stream. The word "mixing" means that the entire samples in the first fluid flow stream (S1, S2, S3 in Ferrari) are completely combined with respective portions of the second fluid flow stream.

2. The Examiner points out that "a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art." Appellants' claim 1 recites a device wherein gas-separated samples from multiple source wells are guided to an inlet of a junction device for mixing therein with another fluid stream. Ferrari's device does not have this structure. The well samples cannot pass to the inlet of the element 30, because the dialyzer's structure prevents that flow.

The above arguments with respect to element 30 also apply to the Examiner's application of element 44 in rejecting claim 1.

4. The Examiner repeatedly states that the "gas-separated sample fluid flow stream, at least from tube 28, enters the dialyzer and exits the dialyzer via outlet tube 42." The gas-separated fluid stream from tube 28 is not a succession of samples from respective source wells, as set forth in appellants' claim 1. Such well samples are present only in the upper portion of the Ferrari device, including the mixing coil (10) (see Figure 2). Tubes 28 and 42 do not carry samples from respective source wells to a junction device (30 or 44 in Ferrari) for mixing therein.

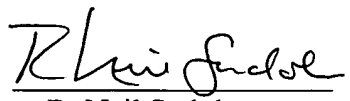
For the foregoing reasons and the reasons present in Appellants' prior filed Brief on Appeal, the rejection of independent claim 1 under 35 U.S.C. § 103(a) is deemed to be

improper. Appellants therefore request that the Examiner be reversed and the application remanded for proceedings towards issuance.

Respectfully submitted,

COLEMAN SUDOL SAPONE, P.C.

Dated: September 26, 2006

By: 

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